

Agreement of the Yolo Prescribed Burn Association

Recitals

A. The Yolo County Resource Conservation District (“YCRCD”) works to protect, improve and sustain the natural resources of Yolo County by developing, evaluating and implementing conservation practices through cooperative land users, providing technical guidance and on-site expertise, educating agencies and the public in resource conservation and enhancement and sponsoring partnerships and networks.

B. One mechanism that the YCRCD uses to protect, improve, and sustain natural resources is prescribed fire, or the intentional application of fire for wildland management goals, including the prevention of high intensity wildland fires, watershed management, range improvement, vegetation management, forest improvement, wildlife habitat improvement, restoring ecological integrity and resilience, community wildfire protection, carbon resilience, enhancement of culturally important resources, and maintenance of air quality.

C. To further this work, the YCRCD wishes to establish an informal partnership to promote the use of prescribed fire in Yolo County, together with the undersigned landowners, Tribes and members (together with the YCRCD, “Members”), known as the Yolo Prescribed Burn Association (“YPBA”).

D. The undersigned Members are committed to promoting the use of prescribed fire in Yolo County and adjacent regions for multiple benefits.

E. This Agreement (“Agreement”) establishes the YPBA and governs the work and the relationship of Members, for the use of prescribed fire and the protection and improvement of natural resources in Yolo County.

Agreement

Now, therefore, the undersigned Members hereby agree as follows:

- 1. Purpose.** YPBA works to collaboratively plan, promote, and implement prescribed burns in Yolo County. YPBA operates on private, public, and tribal property.
- 2. Membership.** The YPBA is established with the YCRCD and undersigned Members. New Members may join by signing the Agreement. The YPBA is a partnership among existing organizations and individuals only; it is not a separate organization or a subsidiary of any of Members.
- 3. Term.** The term of this Agreement is one year from the date of signing by the YCRCD. At the end of the first one-year term or any term thereafter, Members may

agree to extend the Agreement for another year term by signing an addendum to this Agreement. The rights and obligations of any Members that decline to participate in YPBA for a subsequent term are terminated as of the anniversary date, except for such rights and obligations pursuant to Section 6, which survives termination or expiration of this Agreement. The YPBA shall be terminated upon expiration of a term in which no Members agree to extend the Agreement.

4. Prescribed and/or Training Burns. YPBA shall coordinate prescribed and/or training burns in accordance with the following terms:

4.1 Responsibility for any burn shall rest with the owner(s) of the land on which the burn is located (“Property Owner”), each of whom shall be a Member of YPBA. Property Owners may elect to further assign responsibility to a burn boss, CAL FIRE, or other third-party.

4.2 Each burn must meet the following criteria:

a. The purpose of the burn is for wildland fire hazard reduction, ecological maintenance and restoration, cultural burning, or agriculture.

b. The Property Owner has determined whether to retain a burn boss or cultural fire practitioner to direct the prescribed fire. This determination, as well as the selection of the specific burn boss or cultural fire practitioner, shall be made in the sole and absolute discretion of the Property Owner, even if funding for the burn boss is provided by the YCRC.

c. The Property Owner, or if burn boss is being used, the burn boss, has developed a written burn plan. It shall be within the Property Owner’s sole and absolute discretion to determine format and content of the written burn plan, provided that a burn boss certified pursuant Public Resources Code § 4477 has reviewed and approved the plan, and it contains adequate risk mitigation measures. This Section 4.2(c) is inapplicable if the burn is led by a cultural fire practitioner or CAL FIRE.

d. The Property Owner and, if applicable, the burn boss or cultural fire practitioner, agree to follow all applicable local, state, federal, and tribal laws.

e. The Property Owner has liability insurance for burn activities of at least \$2 million per event, either (i) personally, (ii) through a burn boss or cultural fire practitioner, (iii) through a liability sharing agreement with CAL FIRE, or (iv) through enrollment of the burn activity in the State Prescribed Fire Claims Fund. The YPBA may

waive this requirement if no insurance is available for a particular burn.

f. The Property Owner or YCRCDC has obtained all applicable permits, licenses, and authorizations, including but not limited to any necessary governmental burn permits or air quality permits.

g. The Property Owner, or if burn boss or cultural fire practitioner is being used, the burn boss or cultural fire practitioner, will ensure that all participants agree to follow any written burn plan and all directions of the Property Owner and burn boss and to act in a safe and responsible manner.

h. The Property Owner, or if burn boss or cultural fire practitioner is being used, the burn boss or cultural fire practitioner, will ensure that all equipment to be used to conduct the burn is appropriate for the type of burn and the conditions, and that all equipment is in good working order.

i. The Property Owner, or if burn boss or cultural fire practitioner is being used, the burn boss or cultural fire practitioner, will ensure that all participants are adequately trained and experienced, are physically fit to perform the work, and have appropriate protective equipment. It shall be within the Property Owner's, burn boss's, or cultural fire practitioner's sole and absolute discretion to determine the level of qualifications, training, experience, fitness and protective equipment necessary for any burn, provided that participants on all burns involving the YCPBA shall use the following protective equipment at a minimum: leather gloves, leather boots, hat/helmet, long sleeves and pants made of all natural fibers. Non-participating observers may attend the burn without the required training, provided that the Property Owner, burn boss, or cultural fire practitioner ensures they do not participate in burn activities.

j. The Property Owner will ensure that the burn boss or cultural fire practitioner (if any), all participants in the burn and any non-participating observers sign an Assumption and Release of Liability Agreement for YPBA Activities.

k. If the Property Owner is not participating in the burn, the Property Owner has provided written permission for the burn to the burn boss, cultural fire practitioner, or other leader.

5. Equipment Sharing. Members shall share equipment in accordance with the following terms:

5.1 The equipment borrower shall be responsible for determining if the equipment is in good working order and if it is appropriate for the activity if used for a non-YPBA activity. Consequently, at a non-YPBA activity, the equipment borrower agrees to release and waive any claims against the equipment lender and to indemnify the equipment lender for any third-party claims arising out of the equipment borrower's use of the equipment pursuant to an Equipment Waiver. At a YPBA activity, Section 6 shall apply.

5.2 If the equipment is borrowed for use at a non-YPBA activity, and the equipment is lost or damaged, the equipment borrower shall be responsible for replacing or repairing the equipment.

6. Liability.

6.1 Each Member agrees to assume the risk to itself for any and all claims, losses, costs, damages, expenses (including attorneys' fees), personal injuries, or deaths resulting in any manner to itself and its officers, directors, members, employees, volunteers, agents, representatives, heirs, and assigns arising from, during, or related to any YPBA activities, including use of prescribed fire or operation of machinery.

6.2 On behalf of itself, and its officers, directors, members, employees, volunteers, agents, representatives, successors, heirs, and assigns, each Member releases and waives all claims and liabilities against every other Member, and their officers, directors, members, employees, volunteers, agents, representatives, successors, heirs, and assigns, for any and all of its own losses, costs, damages, expenses (including attorneys' fees), personal injuries, or deaths arising from, during or related to any YPBA activities, including use of prescribed fire or operation of machinery, except to the extent caused by the gross negligence or willful misconduct of the other Member.

6.3 The release and waiver in Sections 6.1 and 6.2 is effective, regardless of whether the claim of liability is asserted in negligence, strict liability, or other theory of recovery.

6.4 Notwithstanding Sections 6.1 to 6.3, the owner of the property on which prescribed burn coordinated by YPBA originates ("Property Owner") agrees to accept all risk and liability for any and all claims, losses, costs, damages, expenses (including attorneys' fees), personal injuries, or deaths to third parties arising in any manner from such burns, except to the extent caused by the gross negligence or willful misconduct of another Member.

a. Each Property Owner therefore agrees to indemnify, defend, and hold every other Member harmless for any and all claims or liabilities for any and all losses, costs, damages, expenses (including attorneys'

fees), personal injuries, or deaths to non-participants made against the other Member during or related to the Property Owner's burns, except to the extent caused by the gross negligence or willful misconduct of the other Member.

b. The Property Owner may further assign liability to a burn boss engaged for the burn. It shall be the obligation of the Property Owner to ensure the agreement with the burn boss addresses liability as intended.

c. This Section 6.3 shall only apply to claims against a Member made by non-participants in the burn. Each participant shall release and waive all claims against the Property Owner and other Members according to Sections 4.2(j), 6.1, and 6.2.

6.5 YPBA assumes no liability for the conduct of Members.

6.6 Each Member with employees shall carry appropriate workers compensation coverage for any of its employees participating in YPBA activities.

6.7 This Section 6 shall survive expiration or termination of the Agreement.

6.8 To the extent a burn or activity-specific waiver or indemnity conflicts with this Section 6, the burn or activity-specific waiver or indemnity shall control.

7. *[Placeholder for any PBA requirements (dues), membership requirements (attendance?), and decision-making parameters re-fund allocation, burn support, etc.]*

8. General Provisions.

8.1 Amendments. This Agreement may not be amended, modified, or otherwise changed except by a written instrument duly signed by authorized representatives of all Members; provided, however, that any two or more Parties may agree to different requirements or liability for a particular activity via separate writing.

8.2 Applicable Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of California.

8.3 Authorized Representatives. By signature below, each party certifies that the individuals listed in this document as representatives of the

individual parties are authorized to act in their respective areas for matters related to this agreement.

8.4 Compliance with Laws. Members shall comply with all laws applicable to any activities coordinated by YPBA.

8.5 Counterparts. Members agree this Agreement may be executed in counterparts, facsimile, email, docusign, or similar program. Pdf image signatures have the same force and effect as original signatures.

8.6 Dispute Resolution. Members shall make a good faith effort to meet and to settle any dispute or claim arising under this Agreement prior to pursuing litigation. If any litigation is commenced between parties to this Agreement concerning any provision hereof or the rights and duties of any person in relation thereto, each party shall bear its own attorneys' fees and costs.

8.7 Entire Agreement. This Agreement constitutes the sole and entire agreement between Members, and supersedes all prior agreements, negotiations, and discussions between Members with respect to the subject matters covered hereby. Members each acknowledge that by entering this Agreement, they are not relying on any representation, promise, or warranty other than the terms and provisions set forth in this Agreement.

8.8 Joint Venture. Unless otherwise expressly provided by law, personnel or volunteers of one Member shall not be considered to be agents or employees of another Member for any purpose, and no joint venture or principal-agent relationships shall be deemed to exist.

8.9 Severability. If any paragraph, section, sentence, clause, or phrase in this Agreement shall become illegal, null, or void for any reason, or shall be held by a court of competent jurisdiction to be illegal null, void, or against public policy, the remaining paragraphs, sections, sentences, clauses, or phrases herein shall not be affected thereby and the balance of the Agreement shall remain fully enforceable.

8.10 Successors and Assigns. This Agreement shall be binding on and inure to the benefits of Members and to their respective successors and assigns and include any successor or assign of any Member under this Agreement.

IN WITNESS WHEREOF, Members have executed this Agreement effective as of the signature date of the Yolo County Resource Conservation District and one other Member. Any new Member shall be responsible for compliance with the Agreements terms only after its signature date.

Yolo County Resource Conservation District

By: _____
Its: _____
Date: _____
Telephone: _____
Address: _____
Email: _____

Member

Organization/Individual: _____
Signature: _____
Title (if applicable): _____
Date: _____
Telephone: _____
Address: _____
Email: _____

Member

Organization/Individual: _____
Signature: _____
Title (if applicable): _____
Date: _____
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